

2005 Senate Bill 453

Date of enactment: **April 11, 2006**
Date of publication*: **April 25, 2006**

2005 WISCONSIN ACT 323

AN ACT *to amend* 20.566 (1) (hp); and *to create* 71.10 (5fm) of the statutes; **relating to:** creating an individual income tax checkoff for donations to the fire fighters memorial.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.566 (1) (hp) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

20.566 (1) (hp) *Administration of endangered resources; professional football district; breast cancer research; fire fighters memorial; veterans trust fund voluntary payments.* The amounts in the schedule for the payment of all administrative costs, including data processing costs, incurred in administering ss. 71.10 (5), (5e), (5f), (5fm), and (5g) and 71.30 (10). All moneys specified for deposit in this appropriation under ss. 71.10 (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), and (5g) (i) and 71.30 (10) (i) and (11) (i) shall be credited to this appropriation.

SECTION 2. 71.10 (5fm) of the statutes is created to read:

71.10 (5fm) FIRE FIGHTERS MEMORIAL CHECKOFF. (a) *Definitions.* In this subsection:

1. "Corporation" means the Wisconsin State Fire-fighters Memorial, Inc.

2. "Department" means the department of revenue.

(b) *Voluntary payments.* 1. 'Designation on return.' Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the fire fighters memorial.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the fire fighters memorial when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the fire fighters memorial from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the fire fighters memorial:

1. The department shall reduce the designation for the fire fighters memorial to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the fire fighters memorial.

2. The designation for the fire fighters memorial is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

designated on the return for the fire fighters memorial, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the fire fighters memorial to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the fire fighters memorial, the designation is void.

(f) *Void designation.* If a designation for the fire fighters memorial is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the corporation, the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the fire fighters memorial made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

4. The total of all annual net amounts that have been

certified under subd. 3. in the current year and any previous year.

(i) *Appropriations.* From the moneys received from designations for the fire fighters memorial, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited into the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be transferred to the corporation for the construction, improvement, and maintenance of the fire fighters memorial.

(j) *Amounts subject to refund.* Amounts designated for the fire fighters memorial under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(k) *Sunset.* No individual may make a designation described under par. (b) 1. that relates to any taxable year beginning on or after January 1 of the year in which the secretary of revenue certifies under par. (h) 4. that the total net amount exceeds \$400,000.

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.